

## Hissar Circle

The 9th August, 1976

No. 28HA/63F/791.—Whereas the Governor of Haryana is satisfied that land specified below is needed by the Government, at public expense, for a public purpose, namely, for the construction of a road Tohana to Damkaura road in Hissar District, it is hereby declared that the land described in the specification below is required for the aforesaid purpose.

This declaration is made under the provision of section 6 of the Land Acquisition Act, 1894 to all whom it may concern and under the provision of section 7 of the said act, the Land Acquisition Collector, Haryana P.W.D., B. & R. Branch, Ambala Cantt, or any other special collector authorised by the Colonization Officer-cum-Special Land Acquisition Collector, Haryana, is directed to take orders for the acquisition of the said land.

Plans of the land may be inspected in the office of the Land Acquisition Collector, Haryana P.W.D., B. & R. Branch, Ambala Cantt, and the Executive Engineer.

## SPECIFICATION

Name of District	Name of Tehsil	Name of village	Area in Acres	Remarks
Hissar	Tohana	Tohana	6310×40 4840×9 =5.79 acres	172/21, 25, 171/21/1, 22/1, 22/2, 23, 24, 25, 170/21, 22, 23, 24, 25, 178/21, 169/22, 23, 24, 168/25, 25, 198/4/1, 4/2, 5, 195/1, 2, 3, 4, 5, 196/1, 2, 3, 4, 5, 194/1/1, 1/2, 2, 8, 9, 13, 14, 16/1, 16/2, 17 & 25. 193 16, 17, 18/1, 18/2, 19/1, 19/2, 20, 21, 22, 23 192 231 19/1, 19/2, 20, 376, 377 1 212 1, 10, 11, 20, 21, 8, 9, 13, 14, 17, 18, 23, 403 40 19, 20, 21, 22, 23/1, 23/2, 24 41 10, 11, 12/1, 12/2, 13/1, 13/2, 14, 16/1, 16/2, 17 42 1, 2/1, 42/2/2, 3, 4, 5, 6/1, 6/2, 7, 8 36 11, 12, 17, 19, 18, 20, 23, 24, 25, 22 35 5, 6, 15, 16 30 9, 10, 11, 13, 14/1, 14/2, 17, 24, 25 29 31 21, 22 1, 6, 7/1, 7/2, 8/1, 8/2, 9, 10 32 1/2, 1, 2/2, 3/1, 3/2, 4, 5, 6, 7, 81, 82, 83
Hissar	Tohana	Damkora & Jamalpur	1356×40 4840×9 =12.45	

Name of District	Name of Tehsil	Name of village	Area in Acres	Remarks
Hissar	Tohana	Jamalpur		<div>5</div> <div>305, 306, 307, 20, 21, 22, 23, 24</div> <div>6</div> <div>16, 17, 18, 19/1, 19/2, 20/1, 20/2, 25</div> <div>7</div> <div>16/1, 16/2, 11, 12, 120, 13, 14, 17, 18, 19</div> <div>8</div> <div>13/1, 13/2, 14/1, 14/2, 15</div>
Hissar	Tohana	Rainwala	$9555 \times 40$ $4840 \times 9$ $= 8.77$	<div>42</div> <div>202, 86, 88, 89, 11/1, 11/2, 12/1, 12/2,</div> <div>43</div> <div>6, 7, 8/1, 8/2, 9, 10, 11, 12, 13, 14, 15</div> <div>44</div> <div>6/1, 6/2, 7/1, 7/2, 8/1, 8/2, 9, 10</div> <div>45</div> <div>1/1, 1/2, 2/1, 2/2, 3/1, 3/2, 4, 5, 6, 7</div> <div>69, 35, 36, 46</div> <div>1/1, 2, 5, 6, 15, 1, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25</div> <div>28, 27</div> <div>5, 6, 15/1, 15/2, 16, 25, 1, 10, 11, 20, 21</div> <div>17, 16</div> <div>1, 10, 11, 20, 21, 5, 6, 15, 16, 25</div> <div>10, 9</div> <div>5, 6, 15, 16, 25, 1, 10, 11, 20, 21</div> <div>3, 2</div> <div>11, 20, 21, 15, 16, 25</div> <div>32, 31</div> <div>203, 1, 10, 59, 60, 5, 6</div> <div>27</div> <div>5/1, 5/2, 6, 15, 16, 25</div>
Hissar	Tohana	Mamupur	$4320 \times 40$ $4840 \times 9$ $= 3.97$ acres	

Name of District	Name of Tehsil	Name of village	Area in Acres	Remarks
Hissar— <i>contd</i>	Tohana— <i>contd</i>	Mamupur— <i>concl'd</i>	3.97— <i>concl'd</i>	$\begin{array}{r} 26 \qquad 21 \\ \hline 1, 10, 11, 20, 21, \quad 10, 11, 20, 21 \\ \hline 20 \\ \hline 6/1, 6/2, 7, 8, 11, 12/1, 12/2, 13/1, 13/2, \\ \hline 20 \\ \hline 14, 20, 6, 8, 15, 16, 25 \\ \hline 19 \\ \hline 16/1, 16/2, 17/1, 17/2, 18, 19, 21/1, 21/2, 22, 23 \\ \hline 18 \\ \hline 25/1, 25/2, 24 \end{array}$
Hissar	Tohana	Girnun	$\begin{array}{r} 4620 \times 40 \\ \hline 4840 \times 9 \\ \hline = 4.25 \end{array}$	$\begin{array}{r} 3 \\ \hline 21/1, 21/1/2, 22, 23/1, 23/2, 24 \\ \hline 11 \qquad 4 \\ \hline 1, 2, 3, 4, \quad 21, 22/1, 22/2, 23, 24, 25 \\ \hline 10 \qquad 15 \\ \hline 1, 2, 3, 4, 5, \quad 16, 17, 18, 19, 20 \\ \hline 6 \qquad 8 \qquad 53 \\ \hline 21, 22, 23, 24, 25, \quad 1, 2, 3, 4, 5, \quad 7 \end{array}$
Hissar	Tohana	Nathuwal	$\begin{array}{r} 2345 \times 40 \\ \hline 4840 \times 9 \\ \hline = 2.15 \end{array}$	$\begin{array}{r} 16 \\ \hline 54, 48, \quad 21, 22, 23, 24, 25 \\ \hline 27 \\ \hline 1, 2, 3, 4, 5 \end{array}$
Hissar	Tohana	Chillewal	$\begin{array}{r} 400 \times 40 \\ \hline 4840 \times 9 \\ \hline = 0.37 \end{array}$	$\begin{array}{r} 3 \\ \hline 185, 98, \quad 12, 13/1, 13/2, 18, 19/1, 19/2 \end{array}$
Total			$\begin{array}{r} 41120 \times 40 \\ \hline 4840 \times 9 \\ \hline = 37.75 \end{array}$	

No 28HA/63F/793.—Whereas the Governor of Haryana is satisfied that land specified below is needed by the Government, at public expense for a public purpose namely, for the construction of a road H.B.T. road to village Bhimanwala in Hissar District, is hereby declared that the land described in the specification below is required for the aforesaid purpose.

This declaration is made under the provisions of section 6 of Land Acquisition Act, 1894, to all whom it may concern and under the provision of section 7 of the said Act, the Land Acquisition Collector, Haryana P.W.D., B.&R. Branch, Ambala Cantt. or any other special Collector authorised by the Colonization Officer-cum-Special Land Acquisition Collector, Haryana, is hereby directed to take orders for the acquisition of the said land.

Plans of the land may be inspected in the offices of the Land Acquisition Collector, Haryana, P.W.D., B.&R. Branch, Ambala Cantt. and the Executive Engineer.

#### SPECIFICATION

Name of District	Name of Tehsil	Name of Village	Area in Acres	Remarks
Hissar	Tohana	Bhimanwala	2717×40 4840×9 = 2.49 acres	As demarcated at site
				33
				22, 23, 24, 25
				34
				21, 22, 23, 24, 25
				35
				21, 22/1, 22/2
				46
				1, 2
				47
				1 to 5
				48
				2/1, 3, 4, 5

B. K. WADHWA,  
Superintending Engineer,  
Hissar Circle, P.W.D. B.&R. Branch,  
Hissar.

#### LABOUR DEPARTMENT

The 19th August, 1976

No. 4870-4Lab-76/23372.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the Management of M/s Panipat Co-operative Sugar Mills, Panipat.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 2 of 1974

between

THE WORKMEN AND THE MANAGEMENT OF M/S PANIPAT CO-OPERATIVE SUGAR  
MILLS, PANIPAT

#### AWARD

By order No. ID/KNL/13-V-73/1935, dated 22nd January, 1974 the Governor of Haryana, referred the following disputes between the management of M/s Panipat Co-operative Sugar Mills, Panipat and its workmen to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

- (1) Whether the workers mentioned in Appendix 'A' should be paid incentive bonus for the year 1970-71 and 1971-72 ? If so, with what details ?

- (2) Whether the workers mentioned in Appendix 'B' should be given the clerical grade ? If so, with what details ?
- (3) Whether the workers mentioned in Appendix 'C' should be designated as per recommendation of Second Sugar Wage Board and paid as such ? If so, with what details ?
- (4) Whether Shri Shiv Narain, Assistant Cashier who worked as Cashier from 26th March, 1970 to 15th May, 1971 should be paid the wages of Cashier ? If so, with what details ?
- (5) Whether Shri Kashmiri Lal worker should be promoted according to seniority ? If so, with what details ?

The parties put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings.

The workmen filed a claim statement in conformity with the notice of demands raised by them on the management, dated 22nd June, 1973, with the allegations that the management paid incentive bonus to their workmen on their rolls during the season 1970-71 and 1971-72 at the rate of one month salary to each workman for each year except to the workmen mentioned in the enclosure Appendix 'A' and that the later were also entitled to the payment of the bonus on parity with the other workmen who had been paid bonus at the aforesaid rates. They further alleged that even though the nature of duties of the workmen mentioned in enclosure 'B' was clerical, they had not been given the clerical grades and were as such entitled to the grant of such grades and that workmen mentioned in the enclosure (C) had not been given designation and granted grades according to the nature of their duties and were as such entitled to the same, according to the recommendations of the second Sugar Wage Board. They further claimed officiating allowance of the job of a cashier for one Shri Shiv Narain, Assistant Cashier, for the period from 26th March, 1970 to 13th May, 1971 on the ground that he had actually worked as Cashier during the aforesaid period in place of Shri Chuni Lal Ex-Cashier since retired from the mills. The demand relating to promotion of Shri Kashmiri Lal was given up on the ground that he had already been promoted.

The management raised a preliminary objection,—*vide* written statement filed by them that the reference was based on the individual claim of some of the workmen, which did not constitute an industrial dispute and that no resolution of the union had been placed on the record to show that the individual claims were ever converted into an industrial dispute and as such the reference was bad in law not entitled to be adjudicated upon. On merits they stated that there was no incentive bonus to their Permanent and seasonal employees during the year 1970-71 and that it was not permissible to the casual employees who had now raised a belated demand, dated 22nd June, 1973 in this connection and that it was liable to be rejected on the ground of delay as well. The management thus denied claim of the workmen mentioned in the Appendix 'A' on the ground that they were casual employees and had made the demand after delay.

The management denied the claim of the workmen mentioned in Appendix 'B' and in Appendix 'C', leading to disputes Nos. 2 and 3 stated above on the ground that they had been properly and rightly classified and designated according to the recommendations of the Second Sugar Wage Board and were being paid as such. They also denied the claim of Shiv Narain.

They while admitting that Kashmiri Lal had been promoted and his demand had become infructuous denied the claim of Shri Shiv Narain on the ground that he was working in a clerical grade.

The workmen controverted the pleas of the management and reiterated the allegations made by them in the claim statement,—*vide* rejoinder filed by them, with the result that the following issues were framed on pleas of the parties,—*vide* order, dated 20th March, 1974 :—

- (1) Whether the demands the subject matter of the present reference do not constitute industrial dispute as defined under section-2-K of the Industrial Disputes Act, 1947? (on management)
- (2) Whether the dispute was properly espoused as required by law, if not with what effect ? (On its objected to) (on workman ?)
- (3) Whether the workers mentioned in Appendix 'A' should be paid incentive bonus for the year 1970-71 and 1971-72 ? If so, with what details ?
- (4) Whether the workers mentioned in Appendix 'B' should be given the clerical grade ? If so, with what details ?
- (5) Whether the workers mentioned in Appendix 'C' should be designated as per recommendation of Second Sugar Wage Board and paid as such ? If so, with what details ?

(6) Whether Shri Shiv Narain, Assistant Cashier who worked as Cashier from 26th March, 1970 to 15th June, 1971 should be paid the wages of Cashier ? If so, with what details ?

(7) Whether Shri Kashmiri Lal worker should be promoted according to seniority ? If so, with what details ?

I have heard the learned authorised representatives for the parties and seen the record. I decide the issues as under :—

*Issues Nos. 1 and 2.*—These issues were decided against the management, by Shri O. P. Sharma, the then Presiding Officer, Industrial Tribunal, Haryana,—*vide* his order, dated 21st February, 1975 and as such obviously do not require fresh findings.

*Issue No. 3.*—This is an important issue in the case. It would appear from the pleas of the management that they justified their denial of grant of incentive bonus to the workmen as mentioned in Appendix 'A' on the only ground that they were casual employees. It would be necessary in his contest to reproduce the order, dated 17th November, 1971 made by the management allowing their employees incentive bonus, Exhibit W.W. 13/6 as under :—

Gen/71-72-3331

17th November, 1971.

#### OFFICE ORDER

"In terms of the decision taken by the Directors our Mills in its meeting held on 15th November, 1971 employees of the Sugar Mills will be granted incentives bonus for the season 1970-71 equivalent to one month's salary on the basis of salary drawn for the month of March, 1971.

- |   |                     |
|---|---------------------|
| 1. Employees worked during the season for less than 33 days | .. Nil              |
| 2. Employees worked for 34 days but less than 67 days       | .. Half Salary      |
| 3. Employees worked for 68 days or more                     | .. One month salary |

All concerned please note.

No. Gen/71-72/1-0/1

(Sd.)  
General Manager.

No exception is even made by the management in respect of casual employees in the matter of grant of incentive bonus, in the order reproduced above and their plea is thus found rebutted by their own order.

Assuming that the management did not intend granting incentive bonus to their casual employees, there is not an iota of evidence on record for them to prove that the workmen mentioned in appendix 'A' were casual employees. None of the witnesses examined by the management deposed a word in this connection so much so even Shri Nand Lal Batra office Superintendent failed to touch this point, so strongly raised by the management by way of a plea in the written statement. There is no legal presumption in respect of the employees being casual. The presumption on the other hand is otherwise in respect of his having been employed on a permanent basis. The case of the management thus remained unestablished on the first plea.

A demand raised on 22nd June, 1973 by the workmen relating to an order made on 17th November, 1971 can not be said to be belated. The failure of the workmen to raise an objection before the management did not legally preclude them from raising a demand. Considered from any angle even this plea has no merit and the management can not be allowed to discriminate against the workmen mentioned in Appendix 'A' by way of disallowing them the incentive bonus admittedly allowed by them to the other workmen 950 in number. Besides causing a lot of heart burning to the workmen as mentioned in Appendix 'A', the decision of the management in not allowing the benefit of grant of incentive bonus to them is obviously an unfair labour practice amounting to their victimisation. I thus hold that the workmen mentioned in Appendix 'A' should be paid incentive bonus for the year 1970-71 and 1971-72 in the manner as stated in Exhibit W.W. 13/6 applicable to other workmen. I accordingly decide this issue in favour of the workmen.

*Issue No. 4.*—As is obvious from the form of the dispute referred to this Tribunal covered by this issue, the burden lies heavily on the workmen to establish their case in respect of grant of clerical grades to them. Out of the 7 workmen as mentioned in Appendix 'B' only, Nafe Singh, Hukam Chand, Bhag Mal and Charan Singh appeared as witnesses. Whereas Charan Singh admitted that he discharged the duties of a Weighman, Bhag Mal and Hukam Chand gave out that they noted the temperature of the Water and took measurement of the water contained in the container as recorders and Nafe Singh deposed that he was employed in Mollases

Account. None of these witnesses could show his entitlement of clerical grades. In view of the duties discharged by them, Mollasses recorders and Mescceration man have been shown in the list of skilled workmen,—vide Appendix 5-A of the recommendations of the second Sugar Wage Board and the workmen shown in Appendix 'B' have been correctly classified. At any rate, there is no evidence justifying their placement in clerical grades and I fully agree with the learned authorised representative for the management that if the intention of the Second Wage Board had been to categorise them in clerical grade they would have specifically done so. I thus in absence of any evidence for the workmen on record on this issue decide the same against them.

*Issue No. 5.*—Shri Kali Ram admitted that he had been designated as Cane Development Officer with Supervisory duties and that he was drawing more than Rs 500 on the date of termination of his services. He is obviously not a workman within definition of this term as used in section 2(s) of the Industrial Disputes Act. Even other wise he did not establish to have any of the qualifications prescribed for supervisory A grade as claimed by him, in the recommendations of the second Sugar Wage Board with the remarks that in case any incumbent was not having the prescribed qualification and experience he shall be placed in supervisory 'B' grade and that a degree in Agriculture and at least 5 years practical experience in Cane Farming and Cane Development was required for placing an incumbent in supervisory A grade. Shri Kali Ram is thus not entitled to any relief.

As regards Kailash Chander and Mohinder Singh, workmen they have been admittedly placed in highly skilled 'A' grade as Electricians. The supervisory 'C' grade as claimed by them is permissible only to a Foreman, Electrical and since the management did not maintain such a post on the approved strength ever since the inception of the mills according to the unrebutted testimony of Shri Kishan Chand, Electrical Engineer, none of them was entitled to supervisory 'C' grade. Sarvshri Gian Chand, Bhagwan Dass Wiremen are admittedly in skilled 'B' grade and claimed skilled 'A' grade, permissible for the post of an Electrician. Shri Kishan Chand, Electrical Engineer examined as M.W. 2 deposed that there were only 4 permanent vacancies of Electrician in the mills besides 4 permanent vacancies of Wiremen which were duly filled up and that there was no vacancy of an Electrician and that he never ordered Bhagwan Dass and Gian Chand to work as an Electrician. I see no reason to disbelieve his statement, particularly when there is no rebuttal and in absence of any vacancy of an Electrician in skilled 'A' grade none of Gian Chand and Bhagwan Dass can be said to have a legitimate claim to the same.

Sarvshri Bhagwan Dass and Gian Chand relied upon the copy of the order, dated 13th March, 1975 Exhibit W.W. 13/1, copy of the recommendation of the second Sugar Wage Board W.W. 13/2, copy of the certificate Exhibit W.W. 13/3, and a statement prepared by him Exhibit W.W. 13/4, showing the dates on which Shri Gian Chand worked as Electrician. Assuming Exhibit W.W. 13/4 as correct, the mere fact that an employee works on a higher job for a temporary period, does not justify his placement in that grade particularly when there is no vacancy. At best he can claim an allowance for having worked on a higher job during that period Exhibit W.W. 13/3 is a certificate of competency of Shri Gian Chand issued under rule 45 of the Indian Electricity Rule and does not entitle him to the job of an Electrician in absence of a vacancy Exhibit W.W. 13/2 is a direction of the Second Wage Board relating to the payment to the workmen of wages of a higher job during the period of his having worked on that job. Exhibit W.W. 13/1 is a copy of an order directing wiremen to be present near the machine. None of these documents is thus helpful to any of these workmen for their entitlement in skilled A grade.

Sarvshri Kantu, Munshi Ram and Ramesh Chand have admittedly been placed in unskilled category of workmen as Megma cooly and Hukmi and Ram Chander workmen have admittedly been placed in unskilled category of workmen as boiler colliers and all of these 5 workmen claimed semi-skilled grade. Munshi Ram appeared in as his own witness as W.W. 7 deposed that he worked a Megma Pump, run by Electric current and that Sarvshri Bhim Singh, Kintu and Ramesh Chand had also been working as such for the last 15 years and all of them were entitled to Semi-skilled grade. He admitted in cross-examination that separate workmen had been engaged for working an electric motor and still other persons had been engaged for working the machines and that his duties were only to protect the Megma coming out of the machines and to see that it did not flow out and go waste. It would thus appear that on his own admission his job did not require any skilled work and that he, and Kantu and Ramesh Chand were not entitled to the semi-skilled grade claimed by them. Neither Hukmi for Ram Chander came forth in the witness-box to support his case and in absence of any evidence none of them is entitled to the grade claimed by him.

Having discussed, the case of the workmen other than Shri Partap Singh, as mentioned in Annexure 'C' this brings me to the decision of the case of the later as put forth by him for grant of skilled 'A' (grade instead of skilled 'C' grade as a Fitter, in his demand. Shri Partap Singh in order to prove his case appeared as his own witness and deposed that he had been directed,—vide order, dated 16th December, 1969 of Shri D. R. Madan the then Chief Engineer to work in R.-Shift as Fitter 'A' grade for two years and that he had been assigned these duties even during the year 1972-73 and was as such entitled to be fitted as Fitter in skilled A grade. He added that he worked in place of Shri Shingara Singh Mill House Incharge in compliance with the order of the Chief Engineer dated 22nd November, 1972 and that he worked in place of Shri Mangal Dass Mill House Incharge Fitter A grade after his retirement. He could not however produce or prove the order of the Chief Engineer directing him to work in place of Shri Shingara Singh or Mangal Dass. It was not shown that Shri Balwant Singh for whom Shri Partap Singh was directed to work,—vide order, dated 16th December, 1969 copy Exhibit W.W.8/1 was fitter

grade A or as to how long did Shri Partap Singh work in his place. The oral statement of Shri Partap Singh that he had actually worked as a Fitter in skilled A grade for a number of years in obedience of the order of the Chief Engineer can not be relied upon, particularly when it stands rebutted by the testimony of Shri Thakur Dass, Chief Engineer, Sugar Mills M.W. 3 and Shri Nand Lal Batra, Office Superintendent, Sugar, Mills M.W. 4 as would appear from the following statement made by them.

Shri Thakur Dass, Chief Engineer examined as M.W. 3 deposed that no order was ever made assigning Shri Partap Singh the duties of Fitter Grade A and that on trial given to him for that job he was found unsuitable for the same. Shri Nand Lal Batra stated that Shri Partap Singh was fitter grade 'C' according to the management record and Shri Hem Raj Sharma, Senior Time Keeper examined as M.W. 5 gave out that no letter was ever received by him in respect of up-gradation of Shri Partap Singh who had been recorded in the attendance register of the employees of the Mills for the months of July, August and October, 1975 brought by him as Fitter grade III and that he was recorded as Assistant Fitter in the attendance register of the employees of the mills for the months of January, 1969, April, 1969, December, 1969 and October, 1970.

There is thus ample evidence on record oral and documentary for the management in support of their plea that Shri Partap Singh was never directed to work as Fitter Grade 'A' and that he was never upgraded as such. I am not prepared to believe the oral uncorroborated testimony of Shri Partap Singh that he worked as Fitter Grade 'A' for a number of years in obedience to the orders of the Chief Engineer. I, therefore, in the final analysis hold the claim of Shri Partap Singh unestablished and decide this issue accordingly.

*Issue No. 6.*—Shri Hem Raj Sharma, Senior Time Keeper, prepared statement Exhibit M-9 from official record brought by him in court showing the days during which Shri Shiv Narain worked as Cashier in clerical grade I while substantially holding the post of an Assistant Cashier in clerical grade III and the statement exhibit M-10 showing the working days of Shri Shiv Narain as Cashier in clerical grade I including rest days and leave days with wages. The authorised representative for the management conceded that all rest days and festival holidays should be taken into account and added to the actual working days of Shri Shiv Narain for determining the period of his work. In view of this concession and having regard to the statements Exhibit M-9, and M-10 prepared by the official of the management hold that Shri Shiv Narain worked as Cashier from 26th March, 1970 to 15th May, 1971 and should be paid the wages of a Cashier of this period. I decide the issue accordingly.

*Issues No. 7.*—This issue was not pressed by the workmen and as such need not be decided.

As a result of the findings made by me on the aforesaid issues I hold that the workmen as mentioned in Appendix A should be paid incentive bonus for the years 1970-71 and 1971-72 in accordance with the order, dated 17th November, 1971 of the management copy Exhibit W.W.13/6 reproduced above in the award and that Shri Shiv Narain should be paid wages of the Cashier for the period from 26th March, 1970 to 15th May, 1971 and none of the other workmen is entitled to any relief. I answer the reference while returning the award in terms of these findings.

Dated, the 10th May, 1976.

MOHAN LAL JAIN,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 589, dated the 12th May, 1975.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

#### APPENDIX "A"

1. Shri Benarsi Dass	Bagges Coolie
2. Shri Daya Chand	Ditto
3. Shri Balwant Singh	Ditto
4. Shri Ohool Singh	Ditto
5. Shri Munshi	Ditto
6. Shri Sat Narain	Ditto
7. Shri Dhula	Ditto
8. Shri Jai Bhagwan	Ditto
9. Shri Hawa Singh	Ditto



10. Shri Suraj Bhan	Baggas Coolie
11. Shri Mehanti	Ditto
12. Shri Maula	Ditto
13. Shri Bhula	Ditto
14. Shri Amar Singh	Ditto
15. Shri Vishaw Nath	Ditto
16. Shri Parkasha	Ditto
17. Shri Kacheroo	Ditto
18. Shri Rava	Ditto
19. Shri Dharam Nath	Ditto
20. Shri Ram Dhari	Ditto
21. Shri Khem Chand	Ditto
22. Shri Umra	Ditto
23. Shri Rattan Singh	Ditto
24. Shri Budhu	Ditto
25. Shri Anant Ram	Ditto
26. Shri Sewa Ram	Ditto
27. Shri Hari Singh	Ditto
28. Shri Rajinder Singh	Ditto
29. Shri Katam Singh	Ditto
30. Shri Jai Singh I	Ditto
31. Shri Ram Sarup	Ditto
32. Shri Gopi Ram	Ditto
33. Shri Jai Singh II	Ditto
34. Shri Ghasia Ram	Store Boy
35. Shri Mam Raj	Weigh Bridge Coolie
36. Shri Mam Nagina	Oil Man
37. Shri Kadma	Press Coolie
38. Shri Lal Ohand	Chowkidar
39. Shri Partap Singh	Do
40. Shri Ram Jeet	Boiler Coolie

MOHAN LAL JAIN,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

#### APPENDIX No. 'B'

1. Shri Nafe Singh	F. Mulasses Recorder
2. Shri Bishan Dev	Ditto
3. Shri Charan Singh	Press Muad Recorder
4. Shri Raj Kumar	Ditto
5. Shri Ram Nath	Ditto
6. Shri Hukam Chand	Masoeration Man
7. Shri Bhag Mal	Ditto

MOHAN LAL JAIN,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

## APPENDIX 'C'

S. No.	Name of the worker	Designation	Present	Demanded	Designation
			Grade	Grade	
1	Shri Kali Ram	Cane Development Officer	Supervisor 'B'	Supervisory 'A'	
2	Shri Mohinder Singh	Electrician	Highly skilled 'A'	Supervisory 'C'	
3	Shri Kailash Chander	Do	Ditto	Ditto	
4	(i) Gian Chand	Wireman	Skilled 'B' Benefit of Rs 16/53 since Nov., 1969	Benefit of Rs 21/53 since Nov., 1969	
5	Partap Singh	Fitter	Skilled 'C'	Skilled A	
6	Kantu	Megma Coolie	Unskilled	Semi-skilled	
7	Munshi Ram	Ditto	Do	Ditto	
8	Shri Romesh Chand	Ditto	Do	Ditto	
9	Shri Bhim Singh	Ditto	Do	Ditto	
10	Shri Hukami	Boiler coolie	Do	Ditto	Waterman
11	Shri Ram Chander	Ditto	Do	Ditto	Moulding shop helper
12	Shri Bhagwan Dass	Wireman	Skilled 'B'	Skilled 'A'	

MOHAN LAL JAIN,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 4897-4Lab-76/23372-A.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Seth Shree Mul Chand, Seva Sadan Free General Eye Hospital, Bihri Kalan, Charkhi Dadri.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 88 of 1973

*between*

SHRI MANGAL SINGH, WORKMAN AND THE MANAGEMENT OF M/S SETH SHREE MUL  
CHAND SEVA SADAN FREE GENERAL AND EYE HOSPITAL, BIHRI KALAN, CHARKHI DADRI

## AWARD

By order No. ID/NNL/5-1/17085, dated 17th May, 1973 the Governor of Haryana, referred the following dispute between the management of M/s Seth Shree Mul Chand Seva Sadan Free General and Eye Hospital, Bihri Kalan, Charkhi Dadri and its workman Shri Mangal Singh to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947.

Whether the retrenchment of Shri Mangal Singh was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged *vide* claim statement filed by him that his services had been retrenched by the management illegally in violation of the provisions of law with effect from 25th July, 1968 in order to weed him out for his trade union activities and that he was entitled to reinstatement on the job of an accountant held by him since 22nd October, 1963 the date of his appointment. He stated that he had been retrenched even earlier on 4th March 1968 and on a demand raised by him for his reinstatement, he had been taken back on duty on 15th June, 1968 as a result of mutual settlement arrived at between the parties.

The Governor of Haryana having issued a corrigendum substituting the name and style of the management as M/s Seth Shree Mul Chand Seva Sadan Free General and Eye Hospital Bihri Kalan, Charkhi Dadri instead of Shri Mul Chand Seva Sadan Free Eye Hospital Bihri Kalan, Charkhi Dadri,—*vide* notification dated the 14th August, 1974, attached with the record, the preliminary objection of the management that the initial reference made implicating Mul Chand Seva Sadan Free Eye Hospital, Bihri Kalan has obviously no merit and as such this objection is disposed off at this stage.

The management raised another legal preliminary objection that the reference was legally barred on principles of *res-judicata* in as much as an earlier reference made to the Labour Court, Haryana, in respect of the same dispute had been dismissed and that the workman had with-drawn the demand leading by the management and no legal, valid and proper conciliation proceedings were held in the matter of the demand leading to the reference. On merits the management pleaded that they were not an industry within the definition of this term as given in the Industrial Disputes Act, hereinafter referred to as the Act and that their bus service business had since been nationalised by the Haryana Government and as such the reference was bad on this ground as well. They stated that the reference had not been made by a legally constituted authority and the Tribunal constituted to which the reference had been made had also not been validly constituted. The management denied the allegations of the workman including the one that he was employed as an accountant without stating the job held by him. They pleaded that the retrenchment was legal and justified in all respect.

The workman reiterated the allegations made by him in this claim statement and controverted the pleas of the management *vide* rejoinder filed by him with the result that the following issues were framed on pleas of the parties *vide* order dated the 3rd December, 1974 :—

- (1) Whether the reference in the present form is bad in law and without jurisdiction as alleged by the management? (on management)
- (2) Whether the respondent society is not an industry? (onus objected too) (on management)
- (3) What is the effect of the withdrawal of the case by the workman concerned in the reference before the Labour Court? (on management)
- (4) Whether the retrenchment for Shri Mangal Singh was justified and in order? If not, to what relief is he entitled?

I have carefully gone through the written arguments filed by the management after I had heard Shri S.N.Vats authorised representative for the workman and seen the record. I decide the issues as under:—  
Issues Numbers 1, 2 and 3 :

These issues being interconnected shall be discussed and disposed off by me together. Shri Jamuna Datt, Secretary-cum-Manager of the management, the only witness examined by the later admitted that the Government had first made a reference in respect of the dispute in question to the Labour Court and on an objection taken up by the management it was held that the Labour Court had no jurisdiction to hear and decide the dispute in respect of the retrenchment of a workman. His statement that the Government made a reference to the Industrial Tribunal in the year 1970 and the demand leading to that reference had been with-drawn by the workman remained unestablished and no documentary evidence could be brought by the management to support such a plea. Shri Jamuna Datt further deposed that Shri Mangal Singh had with drawn three petitions each filed by him under section 33(c)(2) of the Act. Even assuming this statement as correct the with-drawal of petition brought under section 33(c)(2) of the Act did not legally debar a reference in respect of the dispute in question. It would thus appear that there is not an iota of evidence on record to prove that this reference is barred on principles of *res-judicata*.

Shri Jamuna Datt admitted that as a result of nationalisation of the entire Road Transport in the State by the Haryana Government, their route permits had also been with-drawn. He admitted that he was a Secretary of the Hospital and the Manager of the Bus Section of the Society. Shri Mangal Singh workman deposed that the workman was running the business of Transport besides running a Charitable hospital and that he served the transport business as an accountant. It would thus appear from the statement of Shri Jamuna Datt and Mangal Singh workmen that the management of M/s Mul Chand Seva Sadan Free General and Eye Hospital Bihri Kalan was engaged in the business of Transport wherein Shri Mangal Singh was employed to do a clerical job. It could not be disputed that running a transport business amounted to an engagement by the management in an industry.

No evidence could be brought on record in support of the plea of the management that the workman ever with-drew the demand leading to this reference or to the earlier reference and a finding by the Labour Court that it had no jurisdiction to hear and decide the reference relating to the retrenchment of a workman did not operate as res-judicata for a reference to the proper Tribunal. Shri Jamuna Dutt admitted that he did not remember if he had appeared before the Conciliation Officer or before a Joint Labour Commissioner in the matter of the demand leading to the reference under decision. He admitted that he received the letter dated the 11th September, 1968 of the Labour-Cum-Conciliation Officer W-1 and letter dated the 23rd December, 1968 of the Deputy Labour Commissioner Exhibit W-3 and the letter dated the 16th August, 1968 of the Labour-Cum-Conciliation Officer, Bhiwani Exhibit W-2, all relating to the demand leading to this reference. The plea of the management that no conciliation proceedings, legal and proper, were taken up in the matter of this demand, thus stands rebutted by admission of their own alone witness Shri Jamuna Dutt. The circumstances that the Road Transport business was nationalised by the Haryana Government after the retrenchment of the services of the workman did not legally render the reference as bad in law and it was not shown that the authority referring the dispute or the Tribunal to which the dispute has been referred was not legally constituted. I am thus convinced that all legal preliminary objections taken up by the management are frivolous and as such untenable. I, therefore, decide all these issues against the management.

#### Issue No. 4 :

This is the most important issue in the case. The services of the workman were admittedly retrenched with effect from the 25th July, 1968 vide letter dated the 20th July, 1968 Exhibit M.W.1/2 sent to him by Shri Jamuna Dutt, Manager, Bus Service of Seth Shree Mul Chand Seva Sadan Free General and Eye Hospital, Bihri Kalan in order to effect economy with an intimation to him that he shall be paid Rs. 135 equal to one month's wages in lieu of notice and that he was entitled to retrenchment compensation which worked out to be Rs. 337.50 and that he could collect both these items of money on the 25th July, 1968 from the management. Exhibit M.W.1/3 is a copy of resolution adopted by the Managing Committee in respect of the decision taken by them to retrench the services of the workman in order to effect economy. Shri Mangal Singh received the letter dated the 20th July, 1968 retrenching his services, copy Exhibit M. W. 1/2 on 23rd July, 1968 vide acknowledgement receipt Exhibit M. W. 1/4. Exhibit M. W. 1/6 is the copy of the letter dated the 26th July, 1968 sent to the Secretary, Haryana Government by the management informing him about the retrenchment of a workman with effect from 25th July, 1968 on ground of economy, under rule 75 of the Industrial Disputes Punjab Rules 1958 as applicable to the State of Haryana.

Shri Jamuna Dutt admitted vide his supplementary statement dated the 7th June, 1975 that Sarvshri Ram Kumar, Sat Narain, Ram Phal, Surat Singh son of Ganga Ram, Dharam Pal, Ram Sarup, Ram Kishan and Surat Singh of Birhi Kalan had been employed after the retrenchment of Shri Mangal Singh and that Ram Kumar and Sat Narain were related to him. He admitted that Sat Narain was his Son-in-law and Ram Kumar was his Cousin and that both of them had been posted for Adda Booking at Charkhi Dadri and Loharu and that in a letter sent to the Haryana Roadways relating to their employment, they had been described as clerks. He further admitted that Ram Phal was brother of Shri Sat Narain his Son-in-law. He admitted his signatures on letters dated the 20th July, 1968 copy Exhibit M.W.1/2 and Exhibit W/1A, sent to the workman informing him about his retrenchment and intimating him that if at any time it was proposed to employ any clerical staff, he shall be given an opportunity to offer himself for re-employment in preference to others. He admitted the signatures on the money order receipt Exhibit W/2A indicating remittance of Rs. 494.75 to the workman by the management on the 25th July, 1968. It would appear from the aforesaid broad admission of Shri Jamuna Dutt that several persons including some of his close relatives were employed in clerical grades by the management after the retrenchment of Shri Mangal Singh with no opportunity to him for service and that a statement made by Shri Jamuna Dutt that no fresh recruitment had been made on the post held by Shri Mangal Singh of attending to Court cases and cases before the Regional Transport authority, in view of the aforesaid admission has no value particularly when he could not tell if the duties of Shri Mangal Singh were mentioned in his appointment letter or not. The ground of retrenchment of the workman on ground of economy is thus found falsified by the admission of Shri Jamuna Dutt relating to the appointment of several persons in the clerical lines after his retrenchment. Besides the admission of Shri Jamuna Dutt there is on record the statement of Shri Mangal Singh that whereas the total wage Bill of the management at the time of his retrenchment was Rs. 635/- P.M., the same had been raised to Rs. 1425/- P.M. after his retrenchment and in absence of any suggestion made by the management to him of this statement being false, it has to be taken as correct. I, therefore, have no hesitation in holding that the grounds of effecting economy for retrenching the services of the workman did not exist and his services were dispensed with in order to victimise him. This inference is found further corroborated by the admitted fact of the workman having been retrenched even earlier on the 4th March, 1968 and his being reinstated as a result of settlement copy Exhibit W/3A dated the 15th June, 1968 with effect from the 16th June, 1968. His services were in fact 'retrenched' only one month 9 days after his joining duties in pursuance of settlement made under section 12(3) of the Act before the Conciliation Officer copy Exhibit W/3A after his earlier retrenchment. The management did not even honour the settlement dated the 15th June, 1968 copy Exhibit W/3A voluntarily and had to comply with its terms only on a representation made by the workman to them (Exhibit W-4 with a copy to the Labour Officer and another letter to the Labour Inspector and representations copies Exhibit W. 6 and W. 7 subsequently sent by him to the Labour Officer. All these facts lead to irresistible conclusion that the management were bent upon removing the workman from their service on one ground or the other in order to victimise him for his trade union activities. In view of my findings that the ground of retrenchment in fact did not exist, his retrenchment is liable to be set aside for this reason alone.

Taking up the legal aspect of the case. I deem it necessary to reproduce the provisions of section 25-F of the Act relating to the conditions required to be fulfilled precedent to retrenchment of workman as under:—

#### Section 25-F

Conditions precedent to retrenchment of workman :—

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notices, wages period of the notice;

Provided that no such notices shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay or every completed year of continuous service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government, or such authority as may be specified by the appropriate Government by notification in the Official Gazette.

It would appear from the aforesaid provisions that the management are under duty to give one month notice in writing to the workman indicating the reason for his retrenchment or to pay him one month's wages in lieu of notice besides compensation equivalent to 15 day's average pay for every year of continuous service. The workman was admittedly employed on 22nd October, 1963 and retrenched on 25th July, 1968 after he had put in 4 years 9 months 3 days service. He was as such entitled to compensation of Rs 337.50 keeping in view the wages of Rs 135 per mensem drawn by him. Shri Jamuna Dutt admitted his signatures on the letter, dated 20th July, 1968, Exhibit W/1A received by the workman informing him about his retrenchment and intimating him that he could collect his retrenchment compensation of Rs 307.50. Shri Jamuna Dutt also admitted the signatures on the money order coupon, Exhibit W/2A indicating remittance to the workman of retrenchment compensation of Rs 307.50. In view of his admission regarding these documents bearing remittance of retrenchment compensation of Rs 307.50 to the workman, copy Exhibit M.W. 1/2 of the letter, dated 20th July, 1968 showing their readiness to pay to the workman, retrenchment compensation of Rs 337.50 brought by the management on record is obviously a fabrication and I agree with the workman that this was prepared subsequently by the management only in order to meet the requirement of the provisions of section 25-F of the Act reproduced above which they had failed to comply with. The retrenchment of the workman has thus to be held a illegal on this ground as well.

The retrenchment of the workman having been held by me to be illegal he is entitled to be reinstated with effect from 25th July, 1968 with continuity of service and full back wages from the date of his retrenchment till the date of nationalisation of the Road Transport by the Government of Haryana. I accordingly answer the reference while returning the award in terms of these findings.

Dated the 10th May, 1976.

MOHAN LAL JAIN,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

No. 588, dated the 12th May, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

P. P. CAPRIHAN,  
Commissioner and Secy.  
Haryana, Labour and Employment Department.,